

CHAPTER 70 (Revised 9/7/04)

REVIEW OF ELECTION RETURNS

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Section 1. Election review committee; meeting.

- A. The city council acting as the election review committee shall meet on the first Friday after the election and canvass all absentee and questioned and defective ballots executed in the election. If the council is unable to obtain a quorum or complete the count on the Friday after the election, the canvass will be continued the following day and each day thereafter until completed.
- B. The city clerk shall submit to the council the election board's Report of Preliminary Election Results, the Master Voter Registration List, the register, all regular ballots, oath and affidavit envelopes containing questioned ballots, defective and objected-to ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.

Section 2. Review to be public.

- A. The review of all absentee and questioned and defective ballots shall be made in public by opening the returns and announcing the results in front of those present.
- B. The review shall include a review and comparison of the tallies of ballots with the election reports to correct any mathematical error in the count of ballots.
- C. If the election supervisor finds an unexplained error in the tally of ballots, he/she may recount the ballots.

Section 3. Procedure for questioned ballot review.

- A. The election supervisor shall contact the State Division of Elections and the local voter registrars by the Thursday following the election and determine if persons casting questioned ballots because of failure of their names to appear on the Master Voter Registration List were in fact registered to vote in state elections. The election supervisor shall record the names of those questioned voters who are in fact registered to vote and shall submit their names as registered to vote when their questioned ballots are examined with other questioned ballots according to the procedures in subsection (B)(4) of this section.
- B. The council, meeting as the election review committee, shall examine each questioned ballot envelope and shall determine whether the person casting the questioned ballot was registered and eligible to

vote. In making this determination, the council may request the assistance of the clerk, and shall hear the testimony of the voter who cast the questioned ballot and of any other city resident who has information useful to the council's decision. If the council determines that the voter was eligible to vote, the oath and affidavit envelope shall be opened and the ballot removed. If the council upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials.

1. A questioned ballot may not be counted if:
 - a. The voter has failed to properly execute the certificate;
 - b. An official authorized by law to attest the certificate failed to execute the certificate;
 - c. The voter did not enclose the marked ballot inside the small envelope.
2. Any person present at the questioned ballot review may challenge the name of a questioned voter when read from the voter's certificate on the back of the large envelope if he has good reason to suspect that the questioned voter is not qualified to vote, is disqualified, or has voted at the same election. The person making the challenge shall specify the basis of the challenge in writing. The election review committee by majority vote may refuse to accept and count the questioned ballot of a person properly challenged under grounds listed in (1) of this section.
3. If a questioned ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the questioned voter. The election supervisor shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and shall be placed in the office safe.
4. If a questioned ballot is not rejected, the large envelope shall be opened and the small envelope containing the questioned ballot shall be placed in a ballot box and mixed with the other small envelopes containing questioned and absentee ballots. The questioned ballots shall then be removed from the ballot box one by one, taken out of the ballot envelopes, and counted in the same manner in which ballots cast at the polls are counted.

Section 4. Questioned ballots; subpoenas.

The election review committee may order testimony of witnesses and issue subpoenas while investigating questioned ballots. The subpoenas may be enforced by the court upon certification as provided by the state code of civil procedure concerning the enforcement of administrative and state agency subpoenas.

Section 5. Absentee ballots.

- A. The council shall examine each absentee ballot return envelope. Upon the council's satisfaction that:
 1. The voter is registered to vote;
 2. A resident of _____;
 3. Did so certify and cast his/her ballot before a person authorized by law to administer oaths, which person did so sign and seal; and
 4. The ballot was cast before the close of the polls in _____; the return envelope shall be opened and the blank envelope containing the absentee ballot shall be placed in a ballot box and mixed with other small envelopes containing the previously reviewed questioned ballots.
- B. If the council determines that a voter who is voting absentee was not in fact a qualified voter or did not follow absentee voting procedures the council by majority vote may refuse to accept and count the absentee ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The election supervisor shall place all such rejected absentee ballots in an envelope marked "rejected absentee ballots" to be saved with other election materials. The election supervisor shall notify the voter in writing why his/her absentee ballot was rejected.

Section 6. Counting absentee and questioned ballots.

The questioned ballots and absentee ballots shall be removed from the ballot box one by one, taken out of the ballot envelopes, and counted by the council in the same manner in which ballots cast at the polls are counted.

Section 7. Defective ballots.

Council members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom the voter intended to vote.

Section 8. Certifying results.

If no contest of election is begun under the provisions of Chapter 71 of this Code and after all absentee, defective and questioned ballots are counted or rejected the council shall:

- A. Certify a report that shows:
 - 1. The total number of ballots cast in the election;
 - 2. The names of the persons voted for (including write-ins) and the propositions voted upon;
 - 3. The offices voted for;
 - 4. The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 - 5. The disposition of all absentee, questioned, and defective ballots; and
 - 6. Any other matters which the council deems necessary to preserve a complete record of the election.
- B. Record the results of the election in the minutes of the meeting;
- C. Authorize the results to be certified;
- D. Publicly declare the results of the election.

Section 9. Contest of election.

If a contest of election is declared and later resolved, the procedures of Section (8)(A) through (8)(D) shall be followed at a special meeting held on the first Monday after resolution of the contest.

Section 10. Certificate of election.

Once the city council authorizes the election results the city clerk shall prepare two Certificates of Election for each office, proposition, or question considered. The certificates shall be signed by the mayor and attested by the clerk. One original of each Certificate of Election shall be given the successful candidate or the sponsor of the successful questions or propositions named thereon, and the other original of each certificate shall be kept by the city.

Section 11. Retention of election records.

The city clerk shall preserve all election certificates, tallies, and registers for four years after the election. All ballots and stubs may be destroyed 30 days after the certification of the election unless an appeal of the election has been filed in superior court, in which case the ballots and stubs may be destroyed 30 days after the appeal is decided unless stayed by an order of the court.